

Energy & Natural Resources

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Related ILB

- Updates on Water-Resource Utilization
- Govt Makes Assurances over Investment in Water Resources
- Constitutional Court Declares Water-Resources Law Null and Void.

Water-Resource Utilization Permits

The Minister of Public Works and Public Housing ("Minister") has issued Regulation [No. 37/PRT/M/2015](#) on Water-Resource Utilization Permits ("2015 Regulation"). The 2015 Regulation implements Law [No. 11 of 1974](#) on Water ("1974 Water Law"),¹ by establishing guidelines covering the procedures and requirements relating to the securing of water-resource utilization permits ("Water Permit").²

Prior to the issuance of the 2015 Regulation, similar provisions were regulated under Minister of Public Works Regulation No. 49/PRT/1990 on Procedures and Requirements for Water and Water-Resource Utilization Permits ("1990 Regulation").

The 2015 Regulation is relevant to government institutions, legal and/or social entities involved in water utilization, as well as users of water (both individuals and corporations).³

Permission to Utilize Water Resources

All parties are required to obtain a Water Permit if they are looking to use water resources for purposes other than bathing, cooking, drinking, and standard irrigation mechanisms.⁴ Previously, the 1990 Regulation determined the types of activities that had to secure a Water Permit, including drinking-water businesses, mining operations, power plants, water parks, stockbreeding facilities, and so forth.⁵

A Water Permit must be secured when a party intends to utilize surface waters (e.g. rivers, lakes, swamps) or inland-sea waters.⁶ Surface waters are commonly used in additional irrigation mechanisms, sterile/drinking-water production projects, water-powered power plants, and many more applications.⁷ Inland-sea waters, on the other hand, are commonly used in fish ponds (*tambak ikan*), consumable-water production, machine-cooling systems/temperature control of machinery, and so on.⁸

¹ The 1974 Water Law was reenacted by the Constitutional Court on 18 February 2015, after Law [No. 7 of 2004](#) on Water Resources was declared null and void. For further discussion on this reenactment, see ILB [No. 2589](#) and ILD [No. 402](#).

² Art. 2, 2015 Regulation.

³ Art. 3 (1) and (2), 2015 Regulation.

⁴ Art. 3 (3), 2015 Regulation.

⁵ Art. 4, 1990 Regulation.

⁶ Art. 6 (1), 2015 Regulation.

⁷ Art. 6 (2), 2015 Regulation.

⁸ Art. 6 (3), 2015 Regulation.

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Procedures

Applications for the securing of Water Permits must be filed with the Director General for Water Resources ("Director General") via Licensing Service Units (*Unit Pelayanan Perizinan* - "UPP"), along with supporting documents as outlined below:⁹

Type of Application	Requirements
Water Permits	<ul style="list-style-type: none"> a. A location map/situational chart that specifies the exact coordinates of a project's location; b. Details of the extraction method to be used, as well as water-extraction and waste-facility blueprints; c. The technical specifications of the water-extraction facilities; d. The starting date and schedule for the water extraction in question, as well as the utilization period; e. A technical proposal; f. The minutes of a meeting held with the local population(s); g. Copies of identification papers [ID cards, company establishment deed, community acknowledgement from the chief of the local village(s)]; and h. An acknowledgement of environmental safety issued by the relevant authorized institutions.
Water Permits requiring construction of structures	<ul style="list-style-type: none"> a. A location map/ acknowledgement of situational charts that provide the exact location coordinates, or a construction-area diagram; b. A design blueprint; c. The technical specifications; d. The implementation method and its schedule; e. Guidelines relating to operational and maintenance procedures; f. A certificate of land ownership; g. An acknowledgement of environmental safety issued by the relevant authorized institutions. h. The minutes of a meeting held with the local population(s); and i. Copies of identification papers (ID cards, company establishment deed)

After these supporting documents have been submitted, a technical-verification process will be conducted, along with a field survey and a feasibility study.¹⁰ The Director General will then have 30 days in which to either issue a permit or reject the application in question.¹¹ Any rejection must provide sound reasons for the decision, given that applicants are not allowed to reapply using the same data.¹² Permits are valid for five years or possibly longer duration in the case of large-scale investment plans.

The 1990 Regulation, in contrast, did not set out a list of supporting documents that were required before a permit could be issued.

⁹ Art. 9 (4) and (5), 2015 Regulation.

¹⁰ Art. 12 (1), 2015 Regulation.

¹¹ Art. 15 (3), 2015 Regulation.

¹² Art. 16 (1), 2015 Regulation.

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Extensions, Amendments, and Revocations

A Water Permit can be extended by filing a complete written application with the Director General at least three months prior to its expiration date. Failure to meet this deadline will result in a permit holder having to complete a brand-new application.¹³ Requirements for an extension comprise of: (i) a water-resource management service-fee invoice for the preceding year; (ii) a surface-water tax-payment invoice for the preceding year; (iii) the original water permit; and (iv) an environmental management and observation report.¹⁴

The Director General has 30 days after the receipt of a completed application in which to issue a decision, either in form of a rejection or an approval.¹⁵ As with any new application, a rejection must explain the reasoning behind such a decision, given that applicants are not allowed to reapply using the same data.¹⁶

Rights and Obligations

Permit holders have the right to use approved water, water sources, and/or water resources under the terms and conditions of their permits, while taking water availability and water-source conditions into consideration.¹⁷

Permit owners are also subject to the following obligations:¹⁸

Type of Permit	Obligations
Water Permits	<ul style="list-style-type: none"> a. Complies with the provisions set out by the permit; b. Pays water-resource management service fees and complies with other types of financial obligations under the prevailing laws; c. Preserves and maintains water-resource sustainability with regard to its functions; d. Protects and secures water-resource infrastructure; e. Implements the prevention and control of water pollution; f. Carries out environmental-restoration work in order to repair any damage caused as a result of their activities; and g. Makes provision for the daily water necessities of the surrounding local populace.
Water Permits requiring construction of structures	<ul style="list-style-type: none"> a. Prevents water pollution during the construction process; b. Conducts environmental-restoration work in response to any damage caused during the construction process; c. Makes provision for the daily water necessities of the surrounding local populace; d. Offers positive solutions with regard to any social unrest that arises among the surrounding local populace; and e. Performs maintenance on the constructed infrastructure.

¹³ Art. 19 (1) and (2), 2015 Regulation.

¹⁴ Art. 19 (4), 2015 Regulation.

¹⁵ Art. 20 (1), 2015 Regulation.

¹⁶ Art. 21, 2015 Regulation.

¹⁷ Art. 26, 2015 Regulation.

¹⁸ Art. 27 (1) and (2), 2015 Regulation.

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In addition to all of the above obligations, permit owners must also compensate for any losses suffered by the local population due to their water-related activities.¹⁹

The 2015 Regulation repeals and replaces the 1990 Regulation.

The 2015 Regulation has been in force since 3 August 2015.

¹⁹ Art. 27 (3), 2015 Regulation.

RECENTLY PUBLISHED ILB

- New Draft Bill on Alcoholic Beverage Prohibition (Issue 2712 – 3/9/2015)
- Govt Updates Provisions on Corporate Income Tax Deductions (Issue 2711 – 2/9/2015)
- Draft Bill on Land (Issue 2710 – 1/9/2015)
- Govt Strengthens Supervision of Alcoholic Beverage Industry (Issue 2709 – 31/8/2015)

RECENT REGULATION

- Minister of Land and Spatial Planning/Head of the National Land Agency Circular Letter [No. 11/SE/VIII/2015](#) on Acceleration Process of Distribution or Extension of Land Ownership
- Presidential Regulation [No. 71 of 2015](#) on Stipulation and Storage Facilities of Basic Necessities and Essential Items